

CHICAGO BOARD OF EDUCATION

In Re: PROPOSAL TO CLOSE MAHALIA JACKSON ELEMENTARY SCHOOL

Report of DAVID H. COAR, Independent Hearing Officer

HEARING OFFICER REPORT AND RECOMMENDATIONS

Background

The undersigned was appointed to serve as an “Independent Hearing Officer” as that term is used in 105 ILCS 5/34-230. One of the duties of that office is to conduct public hearings on proposed school actions. That hearing was convened at the Chicago Board of Education offices at 125 South Clark Street, Chicago, Illinois on Monday, April 22, 2013 at 5:30 p.m. At that hearing, presentations were made on behalf of the CEO of the Chicago Public Schools and comments were received from members of the public, including parents, teachers and students at Mahalia Jackson Elementary, and elected representatives.

Summary of Proposed Actions

The CEO has proposed that Mahalia Jackson Elementary School (“Jackson”) be closed beginning with the commencement of the 2013-2014 school year. Students attending Jackson during the 2012-2013 school year will

be reassigned to Fort Dearborn Elementary School ("Fort Dearborn"). The geographic attendance boundaries currently associated with Jackson will be reassigned to Fort Dearborn and Paul Cuffe Math and Science Academy ("Cuffe") with the result that students who reside in the current Jackson attendance zone at the beginning of the 2013-2014 school year, but who were not enrolled at Jackson for the current school year, will be assigned to either Fort Dearborn or Cuffe as determined by the new attendance maps. Deaf and hard of hearing students will be reassigned to Miles Davis Magnet School. The grounds stated for the proposed actions are underutilization based upon the Chief Executive Officer's Guidelines for School Actions (Guidelines).

I. Legal Framework for the CPS Proposal as to Jackson

The proposal to close Jackson is a "School Action" under Illinois law and the state legislature has established specific requirements that must be met before such actions can be taken. 105 ILCS 5/34-18 vests the general power and authority to establish and maintain schools (and school facilities) with local school boards (unless otherwise indicated, all statutory references are to the Illinois School Code, 105 ILCS and section references are to that chapter). On August 22, 2011, Governor Quinn signed Public Act 097-0474 amending the School Code adding requirements for School Actions including requiring CPS to publish space utilization standards by January 1, 2012. Pursuant to that law, on

or about December 28, 2011, CPS adopted Space Utilization Standards for high schools and elementary schools.

The CEO also published Guidelines for School Actions for the 2012-2013 School Year (Guidelines"). This latter document provides:

"A school may be considered for a closure, consolidation, reassignment, boundary change, or phase out if it is underutilized or overcrowded based on CPS' Space Utilization Standards and enrollment numbers recorded on the 20th attendance day for the 2012-2013 school year."

The Guidelines also place certain limitations and qualifications on school actions based on underutilization or overcrowding, but I will discuss those in more detail later.

A. Procedural Requirements

Suffice it to note at this point in the report that the procedural requirements for school closing under the Guidelines and those for School actions under the Illinois School Code are substantially similar. For purposes of this report, therefore, I will refer to the procedural requirements under the Guidelines which provide as follow:

"Notice of any proposed school action will be provided to the principal, staff, local school council, parents or guardians, Illinois State Senator, Illinois State Representative, and Alderman for the school or schools that are subject to the proposed school action. Notice will include the date, time and place of public hearings being held to elicit public comment on the proposal."

Along with notice of the CEO's proposal, the CEO will issue a draft school transition plan dependent on the unique circumstances of the proposed school action. The draft school transition plan will include, but is not limited to the following: (1) services to support the academic, social, and emotional needs of the students; supports for students with disabilities, homeless students, and English language learners; and support to address security and safety issues; (2) options to enroll in higher performing schools; (3) informational briefings regarding the choice of schools that include all pertinent information to enable the parent or guardian and child to make an informed choice, including the option to visit the schools of choice prior to making a decision; and (4) the provision of appropriate transportation where practicable.

B. Substantive Requirements

As has been noted above, the Guidelines permit a school to be closed if the school facility is underutilized. Underutilization is a term of art under the Guidelines and the subject of much comment at the hearing. The starting point for understanding what the term "underutilization" means under the Guidelines starts with the CPS Space Utilization Standards published in December of 2011. To determine whether the classroom space at an elementary school is underutilized, you first must determine its ideal enrollment. That is a number based upon a calculation of an assumed number of homeroom classes in a school. To arrive at this number, you take approximately 77% of the actual

classrooms in the school, assigning the balance (approximately 23%) to ancillary classrooms (e.g. science room, music/art room, technology lab, specialized education room and other specialty classrooms). You then multiply that number (77% of actual classrooms) times 30 (30 is the class size number set out in the City of Chicago Policy on Class Size (cited as 10-0615-PO1). In the case of Jackson, there are 33.5 total classrooms (I was told that the half represents a small classroom); my calculations under the formula differ from Mr. Felton's because he rounded down to 76% while I rounded up to 77%). 77% of 33.5 is approximately 26 classrooms. Multiply 26 (25 was the number used by Mr. Felton at the hearing) times 30 and you get 780 which is the ideal enrollment.

Finally, you add and subtract 20% of the ideal enrollment to get the enrollment efficiency range. Thus, in the case of Jackson, the efficiency range is between 936 (780 +20% of 780) and 624 (780-20% of 780). If enrollment is in excess of 780, the facility is over utilized. If enrollment is below 624, the facility is underutilized. In fact, Jackson's current enrollment is 302 and projected enrollment for 2013-2014 is 314, well below the enrollment efficiency range thus calculated.

II. The Impact of Underutilization

As I indicated earlier, under the Guidelines, the fact that a school is underutilized does not, without more, authorize the closing of that school. The

Guidelines list two “Constraining Factors”. The students impacted by the school action (here, the closing of Jackson) must have the option of enrolling in a higher performing school and the resulting reassignment of students to the receiving school will not exceed the enrollment utilization range of the receiving school. Reassignment of Jackson students to Fort Dearborn will not cause Fort Dearborn to exceed its utilization range.

Moreover, the Guidelines list certain “Additional Factors to Consider” by the CEO in deciding whether to recommend a school closing, included, but not limited to: safety and security, school culture and climate, school leadership, quality of the school facility, school type and programming, family and community feedback received throughout the school year, independent from the process described (in the Guidelines), analysis of transition planning costs, neighborhood development plans etc.

As noted, one of the Constraining factors is that students (from Jackson) have the option to enroll at a higher performing school. CPS has determined that this factor is satisfied because Fort Dearborn is a higher performing school. Under the Guidelines, Fort Dearborn would be a higher performing School if it had a higher level on the Performance Policy for the 2011-2012 school years. It does not because both Jackson and Fort Dearborn are at Level 3 for 2011-2012. The Guidelines then describe a tie breaker when the sending and receiving

schools are at the same level: for elementary schools, a higher performing school is the one performing higher (for 2011-2012) on percentage points on the Performance Policy, ISAT composite meets or exceeds score, Value Added reading, and Value Added math. I will not take the time to explain what each of these metrics means because no one disputed that Fort Dearborn meets the criteria for the tie breaker. Rather, as we shall see later, opponents of the proposal to close Jackson argue that these metrics ignore the trend lines and fail to take into account Jackson's 2012-2013 scores to date on many of the same indicators.

III. CPS Procedural Compliance with the Guidelines

At the public hearing, CPS staff presented affidavits and copies of notices establishing the fact that the required notices were sent out in a timely fashion to the individuals and groups required to be provided with notice under the School Code and the Guidelines. Moreover, the notices contained copies of a draft transition plan. There is a question in my mind as to whether the transition plan's treatment of "support to address security and safety issues" provides meaningful information to recipients of the plan as to what concrete steps will be made to ensure the safety of the Jackson students who must travel to a new school under the proposal.

It should come as no surprise that parents and students are deeply concerned about the safety of these young people who must venture into a new community to attend classes if the proposal is approved. There was testimony at the community and public hearings that Jackson and Fort Dearborn lie in the respective territories of two rival street gangs. Parents spoke of gang violence near the Fort Dearborn School, including a fatal confrontation and a beating with a baseball bat. Students spoke of their fears and of numerous acts of violence near both schools.

In the face of these serious fears, this is what the draft transition plan said about Safety and Security:

“CPS has engaged multiple experts regarding school safety to make decisions that will ensure children have a seamless transition next year at all welcoming schools. The Office of Safety and Security (OSS), Chicago Police Department, the Department of Family and Support Services, and community and faith partner were all consulted as part of the safety planning process.”

CPS says that it has prepared a plan for the safety of students and staff affected by the proposed closure of Jackson. OSS will continue to partner on an on-going basis with local community groups, elected officials, sister agencies, and the Chicago Police Department to maintain a smooth and safe transition of students to a new school environment. As part of the transition process, OSS will:

- Review and update school safety audits
- Review security personnel allocations to ensure proper coverage

- Review school safety technology and enhance systems as appropriate
- Address any safety concerns raised by students and staff
- Provide Safe Passage: CPS will invest in additional Safe Passage supports to address the safety of all students and staff traveling to and from school. Safe Passage workers wear identifiable vests and stand on designated street corners to monitor student's safety during their travel to school in the morning and home in the afternoon. Prior to the start of the 2013-2014 school year, OSS will work with the Fort Dearborn administration and the community to designate specific intersections for safe passage supports.
- As deemed necessary by OSS, in collaboration with the community, CPS will also provide a transition security officer to assist with safety and security needs."

In a supplemental submission by CPS, a document promised "a Customized safety plan at every school, including:

- Safe Passage supports to provide safe routes for students traveling to and from school
- Additional security personnel inside each school
- Additional safety technology, such as, entry screening equipment"

It is impossible to tell from the description in the transition plan or the supplement what if any planning and analysis has been done to address the security needs peculiar to Jackson and Fort Dearborn in particular, as opposed to generalized

discussions and generic proposals to deal with security in the abstract. Tellingly, the language quoted in the transition plan is apparently the same language used in the transition plans of all other schools proposed to be closed to describe the safety and security planning, the only difference being that the one reference to Jackson by name is changed to the name of some the other school proposed to be closed. The answer as to what, if any Jackson-Fort Dearborn specific safety planning has taken place might have been addressed at the public hearing, however no one from OSS was present to answer questions or make a presentation. In reading the transcripts of the community meetings, it appears that CPS failed to address safety and security in any meaningful way in that venue as well.

Ms. Johnson talked about her investigation of registered sex offenders living within one half mile of the affected schools. She said that there are 8 registered sex offenders near Jackson, 18 near Fort Dearborn and 22 near Miles Davis.

Finally, Mr. Moton talked about the fact that if Jackson students are reassigned to Fort Dearborn, many will have to cross railroad tracks traveling to and from school. There are no fences surrounding the tracks and there are three official crossing points. Nothing in the transition plan and no information from the hearing indicated how safety would be assured at the crossings. Mr. Moton also

expressed concern that “children being children,” the temptation to take “shortcuts” across or along the tracks would be too great to overcome and that some system need to be put in place to discourage children from unsafe crossings.

There was no indication that CPS is aware of these facts and taken them into account in developing a safety plan. If the proposal is approved, CPS will create a final transition plan that will (presumably) contain more school specific proposals to deal with safety issues. However, it is impossible for concerned parents, students and teachers to provide meaningful input into the decision to close Jackson without knowing whether the reassignment program will safeguard the children. Indeed, the law requires that, in making the decision as to whether to grant the proposal, the Board must pass on the adequacy of the draft transition plan and the draft must address safety and security. It simply is not possible for the Board to make that determination based on the draft.

The message in the transition plan and at the hearing seems to be “trust us, we’ll take care of whatever safety issues arise.” That approach is at odds with the spirit of real notice and comment and the requirement of a draft transition plan that explains to interested parents, students and the Board what they should expect.

IV. Underutilization at Jackson

CPS has determined that Jackson is underutilized by rote application of the formula contained in the CPS Space Utilization Standards. It assumes a ratio of instructional classrooms to ancillary rooms of roughly 3:1 (77% to 23%).

Under the Standards, a special education classroom is an ancillary room.

Assuming that this ratio is sound in a typical elementary school environment, begs the question of whether the interest in such an easily applied formula justifies use of this approach when the school population is atypical. Jackson has a current enrollment of 302 students, of which 62 (slightly over 20%) are children with disabilities. For comparison purposes, Miles Davis serves 33 students with disabilities. Under the Utilization Standards, instructional classrooms for students with disabilities are accounted for in the 23-24% of ancillary rooms.

There was much discussion at the public hearing about whether these proportions make sense in a school where over one fifth of the students have disabilities. It was pointed out that the assumption of 30 students to a classroom could not rationally apply to classrooms serving disabled students. Moreover, Jackson has two cluster programs: one for deaf and hard of hearing students and one for children with autism. As Ms. Ige pointed out at the public hearing, there can be no more than 13 students in the deaf and hard of hearing classrooms and only 6-8 in the autism rooms. Ms. Ige said that there are 44 classrooms at Jackson. Of that number, 10 rooms are used for general education, 9 for special education, 9 for ancillary teachers and 6 rooms are used for the support team

(including a social worker, counselor, an occupational therapist, a speech pathologist, an ideologist, a nurse and a PBIS coach). 10 classrooms are not used.

This last fact indicates that there is underutilization, indeed at Jackson, but certainly not at the level suggested by application of the Utilization Standards. For example, under the Utilization formula, it would be assumed that (for ideal utilization) 34 (actually 33.88) classrooms would be devoted to general instruction with 30 students in each classroom. 10 (actually 10.12) classrooms would be devoted to ancillary functions (including special education). As Ms. Ige indicates, 24 classrooms are devoted to ancillary activities.

V. Fort Dearborn as a Higher Performing School

Applying the definition in the Guidelines, there is no question but that, for the 2011-2012 school year, Fort Dearborn scored higher on the four metrics identified: percentage points on the Performance Policy, ISAT composite meets or exceeds score, Value Added Reading and Value Added Math. Ms. Ige was especially concerned with the use of ISAT data as a factor in making the decision as to what is a higher performing school. As she related, the ISAT metric will soon be retired and replaced NWEA map measures. She discussed the data from 2006-2011 showing that Jackson has been improving its scores over time.

According to Ms. Ige, on average and using the ISAT data, Jackson students are showing a 4-6 point gain while students at Fort Dearborn are making gains in the 3-4 point range for the 2012-2013 school year.

All of this is not to say that Fort Dearborn is not higher performing under the current definition of that term, but rather to note that Jackson is trending upward.

VI. Other Considerations

As noted previously, the Guidelines provide that the CEO may consider other information. I will not address all of the non-exclusive factors, but some were the subject of a great deal of discussion at the public hearing and should be considered. It should be noted that none of these factors were discussed by representatives of CPS at the hearing, so it is unclear whether the CEO considered any of them and, if so, what informed her decision to proceed with the proposal to close Jackson in spite of strong considerations to the contrary.

A. School Safety

I have previously discussed the lack of Jackson-specific information in the transition plan and in the CPS presentation at the hearing.

B. School Culture and Climate

There was a great deal of time devoted to the culture at Jackson. Recall that the deaf and hard of hearing students would be reassigned to Miles Davis under the proposal. CPS indicated that some teachers at Miles Davis began to learn American Sign Language (ASL) this spring in preparation for the arrival of deaf and hard of hearing students from Jackson if this proposal is approved. Several speakers including representatives for organizations advocating for the deaf strenuously urged that dealing with hearing impaired students is a cultural journey. Being able to sign is a good thing, but it barely scratches the surface of the skill set needed to effectively serve the needs of the students. Many speakers attested to the fact that Jackson provides a nurturing learning environment for all students and that special needs students are truly integrated into all aspects of the school community. Jackson has teachers with many years of experience with ASL, deaf and hard of hearing culture, programs, instruction and socialization. The principal at Jackson, Robert Hubbard, is himself deaf or hard of hearing.

Jackson is currently the only elementary school serving deaf and hearing impaired students on the south side of Chicago. All of the students at Jackson know and interact with each other. The environment is inclusive e.g., all students participate in gym, including students with disabilities. Many of the teachers who teach general education and many students who are not hearing impaired

courses have learned (or are learning) to sign. Every teacher at the hearing spoke about their ability to interact with all the children with disabilities, including students with autism.

Jackson has developed several programs in conjunction with (and sponsored by) outside companies and organizations:

- New computer lab thanks to US Bank
- Multi-media production and website design program with assistance from Gear MX
- To market the Mahalia Jackson Elementary brand - PR Store
- Learning garden with assistance from Home Depot
- Male mentoring and violence prevention Delores's Place
- Female mentoring through assistance from Girl Scouts of America
- Misses program for young women created by Mrs. Pleasure, Assistant Principal
- Partnership with Columbia College's Center for Community Art (pre-kindergarten parents take childhood literacy skill classes to engage their children in reading)
- Plans (prepared by an architect) prepared to add a new football and baseball field to the school (discussions with retired professional football and basketball players and the Chicago Bears organization) to make this a reality and to help the community)

C. Quality of the School Facility and Transition Costs

Jackson consists of one building. Jackson has air conditioners in every room and working elevators. It has lift and handicap accessible doorways (for wheelchairs). It is ADA compliant. Less than 10 years ago, new lighting ballasts were installed to eliminate noise interference to hearing aids. It has new windows, a new roof, a fire alarm system and toilet accessories for use by disabled students and, all asbestos has been removed.

In contrast, Fort Dearborn is a campus with 3 buildings: one main building and two modular units. The modular units are not physically connected to each other or to the main building. Students in the modular units must transit outside for lunch and to reach their ancillary classes. There are 22 classrooms in the modular units, 13 of which are not in use currently. Several parents raised concerns as to whether the special education students would be segregated into the empty modular classrooms. Several teachers talked about the lost classroom time involved with getting students dressed to go to a different building in inclement weather. One speaker expressed her belief that Fort Dearborn lacks a functioning fire alarm system. One speaker raised a concern over the efficiency of providing security for 3 buildings at Fort Dearborn rather than one at Jackson. It is unclear whether Fort Dearborn currently has the equipment to meet the needs of the special needs students to be reassigned there and the extent to which costs will be incurred to make the facility ADA compliant.

Miles Davis was built in 2008 and is fully accessible pursuant to the ADA. It has an assistive listening system in assembly spaces and updated fire alarms with visual strobes. Because Miles Davis has not deaf and hard of hearing students before, some of the classrooms must be renovated to provide additional carpeting and acoustics on the walls.

VII. CONCLUSION

Every speaker at the public hearing opposed the closing of Mahalia Jackson Elementary School. That is neither surprising nor determinative of the conclusions reached herein.

What emerged from the hearing was a picture of a unique learning environment in which the goal of integrating the disabled into the school setting in a way that was both educationally rewarding and life-enriching to both special needs and general instruction students. The signature moment of the hearing was when, at the conclusion of remarks by a deaf speaker (aided by an interpreter), almost every person in the crowded hearing room expressed their approval, not by clapping, but by signing applause. Jackson is a family. The students, faculty and parents are engaged. Through the leadership of its principal and his staff, it is making progress in learning and in living.

There is underutilization at Jackson, but my reading of the Utilization Standards leaves me convinced that the formula used is not appropriate for a school in which 20% of the students have special needs and where there are to special needs cluster programs. I have no idea what alternative formula should be applied in this situation. Having said that, the fact remains that, by any count there are at least 10 unused classrooms at Jackson. That is underutilization, but not to the extent suggested by the application of the current Standards. Nothing emerged at the hearing that indicated that the CEO has exercised her discretion to consider “school culture and climate” in making this proposal. Had she done so, I must believe that, given the uniqueness of the culture there, the problem of underutilization at Jackson would have been addressed in a way not requiring the closing of the school.

I find the following:

1. Jackson is underutilized under the existing CPS Space Utilization Standards. While the application of the current Space Utilization Standards to schools having a large population of special education students is questionable, by any measure, with 10 unused classrooms (out of 44), Jackson is underutilized;
2. Fort Dearborn is a higher performing school under the Guidelines. Assigning Jackson’s students to Fort Dearborn will not result in overutilization at Fort Dearborn;

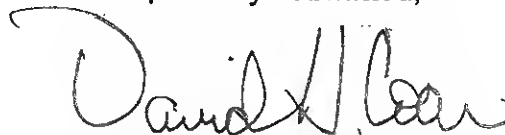
3. Notices of the proposed school action were timely sent to all persons required to receive notice under the Guidelines;
4. Attached to the notices were copies of a draft transition plan;
5. The draft transition plan is deficient in failing to provide the information reasonably necessary to allow parents, students and the Board to evaluate the safety issues specific to the proposed transfer and how those issues would be addressed; and
6. The culture of Jackson is unique, seamlessly integrating special education programs and regular instructional activities in a way that involves the entire school community.

For those reasons, it is my conclusion that the CEO has not met the requirements of the Guidelines and the proposal should be denied.

I reach this conclusion reluctantly. Violence is a fact in the City of Chicago and in the neighborhoods involved in this school action in particular. There is no question that Jackson is underutilized. However, the safety of the youngest and most vulnerable children in the school system is a very serious thing, not to be addressed with generalities and vague promises.

Date: May 5, 2013

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David H. Coar". The signature is fluid and cursive, with a large initial "D" and "C".

Hon. David H Coar (Ret.)
Independent Hearing Officer